

106TH CONGRESS  
1ST SESSION

# S. 1300

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined benefit plan by the adoption of a plan amendment reducing future accruals under the plan.

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## IN THE SENATE OF THE UNITED STATES

JUNE 29, 1999

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined benefit plan by the adoption of a plan amendment reducing future accruals under the plan.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Older Workers Pension  
5   Protection Act of 1999”.

1 **SEC. 2. PREVENTION OF WEARING AWAY OF EMPLOYEE'S**  
 2 **ACCRUED BENEFIT.**

3 (a) AMENDMENT TO INTERNAL REVENUE CODE.—  
 4 Section 411(d)(6) of the Internal Revenue Code of 1986  
 5 (relating to accrued benefit may not be decreased by  
 6 amendment) is amended by adding at the end the fol-  
 7 lowing new subparagraph:

8 “(D) TREATMENT OF PLAN AMENDMENTS  
 9 WEARING AWAY ACCRUED BENEFIT.—

10 “(i) IN GENERAL.—For purposes of  
 11 subparagraph (A), a plan amendment  
 12 adopted by a large defined benefit plan  
 13 shall be treated as reducing accrued bene-  
 14 fits of a participant if, under the terms of  
 15 the plan after the adoption of the amend-  
 16 ment, the accrued benefit of the partici-  
 17 pant may at any time be less than the sum  
 18 of—

19 “(I) the participant’s accrued  
 20 benefit for years of service before the  
 21 effective date of the amendment, de-  
 22 termined under the terms of the plan  
 23 as in effect immediately before the ef-  
 24 fective date, plus

25 “(II) the participant’s accrued  
 26 benefit determined under the formula

1 applicable to benefit accruals under  
 2 the current plan as applied to years of  
 3 service after such effective date.

4 “(ii) LARGE DEFINED BENEFIT  
 5 PLAN.—For purposes of this subpara-  
 6 graph, the term ‘large defined benefit plan’  
 7 means any defined benefit plan which had  
 8 100 or more participants who had accrued  
 9 a benefit under the plan (whether or not  
 10 vested) as of the last day of the plan year  
 11 preceding the plan year in which the plan  
 12 amendment becomes effective.

13 “(iii) PROTECTED ACCRUED BEN-  
 14 EFIT.—For purposes of this subparagraph,  
 15 an accrued benefit shall include any early  
 16 retirement benefit or retirement-type sub-  
 17 sidy (within the meaning of subparagraph  
 18 (B)(i)), but only with respect to a partici-  
 19 pant who satisfies (either before or after  
 20 the effective date of the amendment) the  
 21 conditions for the benefit or subsidy under  
 22 the terms of the plan as in effect imme-  
 23 diately before such date.”

24 (b) AMENDMENT OF ERISA.—Section 204(g) of the  
 25 Employee Retirement Income Security Act of 1974 is

1 amended by adding at the end the following new para-  
2 graph:

3 “(4)(A) For purposes of paragraph (1), a plan  
4 amendment adopted by a large defined benefit plan shall  
5 be treated as reducing accrued benefits of a participant  
6 if, under the terms of the plan after the adoption of the  
7 amendment, the accrued benefit of the participant may at  
8 any time be less than the sum of—

9 “(i) the participant’s accrued benefit for years  
10 of service before the effective date of the amend-  
11 ment, determined under the terms of the plan as in  
12 effect immediately before the effective date, plus

13 “(ii) the participant’s accrued benefit deter-  
14 mined under the formula applicable to benefit accru-  
15 als under the current plan as applied to years of  
16 service after such effective date.

17 “(B) For purposes of this paragraph, the term ‘large  
18 defined benefit plan’ means any defined benefit plan which  
19 had 100 or more participants who had accrued a benefit  
20 under the plan (whether or not vested) as of the last day  
21 of the plan year preceding the plan year in which the plan  
22 amendment becomes effective.

23 “(C) For purposes of this paragraph, an accrued ben-  
24 efit shall include any early retirement benefit or retire-  
25 ment-type subsidy (within the meaning of paragraph

1 (2)(A)), but only with respect to a participant who satis-  
2 fies (either before or after the effective date of the amend-  
3 ment) the conditions for the benefit or subsidy under the  
4 terms of the plan as in effect immediately before such  
5 date.”

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to plan amendments adopted after  
8 June 29, 1999.

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